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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,530	03/10/2004	Scott Lynn Michaelis	200313407-1	4525

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
PATEL, NITIN C	
ART UNIT	**PAPER NUMBER**
2116	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/797,530	MICHAELIS ET AL.	
	Examiner	Art Unit	
	Nitin C. Patel	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/10/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in responsive to response to restriction/election filed on 25 January 2007.

Election/Restrictions

2. In response to arguments, Group-I claims 1 – 10, and 23 – 29, and Group-II claims 11 – 22 and 30 – 36 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 10 March 2004 was filed before the mailing date of the first office action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1, 11, 16, 26, 30, and 34 are rejected under 35 U.S.C. 101 raises a question as to whether the claim is directed merely to an abstract idea that is not directed to a practical application of such judicial exception because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible results to form the basis of statutory subject matter under 35 U.S.C. 101.

5. Claims 2 – 10, 12 – 15, 17 – 22, 27 – 29, 31 – 33, and 35 – 36 are depending upon the rejected independent claims 1, 11, 16, 26, 30, and 34 respectively, and therefore are rejected under 35 U.S.C. 101.

6. Claims 23, and 26 are rejected under 35 U.S.C. 101 raises a question as to whether the claim is directed merely to an abstract idea that is not directed to a practical application of such judicial exception because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible results to form the basis of statutory subject matter under 35 U.S.C. 101. Claims 23, and 26 are having a conditional [IF] statement in the claim language and for the scenario when none of cell of multi-cell has current configuration data it does not produce a useful, concrete, and tangible results to form the basis of statutory subject matter under 35 U.S.C. 101.

7. Claims 23 – 25 and 27 – 29, are depending upon the rejected independent claims 1, 11, 16, 26, 30, and 34 respectively, and therefore are rejected under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 - 22, and 30 – 36 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Zimmer et al. [hereinafter as Zimmer], US Patent 7, 082, 527 B2.

9. As to claim 1, Zimmer teaches a method of managing configuration data for a multi-cell computer system [Fig. 1], the method comprising:

a. storing configuration data [245 disk image and 345 provisioning data] for a given multi-cell computer system [300 fig. 3] to nonvolatile memory [inherent to a claimed boot server 305] of at least one cell [300] of said given multi-cell computer system [300][col. 3, lines 41 – 55, col. 4, lines 12 – 59, col. 7, lines 38 – 45, fig. 1 – 3]; and

b. storing a corresponding identifier to said nonvolatile memory of [305 boot server] said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds [col. 5, lines 37 – 67, col. 6, lines 1 – 23, 39 – 43].

10. As to claim 2, Zimmer teaches storing of configuration data [245 disk image and 345 provisioning data] to said at least one cell [B2] during a first boot-up process of said given multi-cell computer system [col. 4, lines 39 – 49, col. 5, lines 37 – 67, col. 6, lines 1 – 23, fig. 3].

11. As to claim 3, Zimmer teaches storing said identifier that uniquely identifies that said at least one cell received said stored configuration data while a member of said given multi-cell computer system [col. 6, lines 39 – 43].

12. As to claim 4, Zimmer teaches determining during a second boot-up process of said given multi-cell computer system a unique identifier of said given multi-cell

computer system; and determining whether the unique identifier stored to any of said at least one cell matches the determined unique identifier of said given multi-cell computer system [col. 5, lines 37 – 67, col. 6, lines 1 – 23, 39 – 43, 59 – 61, fig. 3].

13. As to claim 5, Zimmer teaches if determined that at least one cell's stored identifier matches the determined unique identifier of said given multi-cell computer system, then determining that such cell's stored configuration data is current [by status check] for the given multi-cell computer system [col. 6, lines 36 – 65].

14. As to claim 6, Zimmer teaches if determined that at least one cell's stored configuration data is current, using the determined current configuration data for configuring the given multi-cell computer system [col. 6, lines 57 – 67, 38 – 67, col. 8, lines 27 – 45].

15. As to claim 7, Zimmer teaches if determined that at least one cell's stored configuration data is current, storing the determined current configuration data for the given multi-cell computer system to other cells of said given multi-cell computer system [col. 7, lines 38 – 67, col. 8, lines 1 – 67, fig. 4 – 5].

16. As to claim 8, Zimmer teaches if determined that at least one cell's stored configuration data is current, updating the other cells' stored identifier to match the determined unique identifier of said given multi-cell computer system [col. 7, lines 14 – 53, col. 8, lines 1 – 67].

17. As to claim 9, Zimmer teaches given multi-cell computer system is a partition of a multi-cell computer system, said partition having a plurality of the cells of said multi-cell computer system [fig. 1 – 3].

18. As to claim 10, Zimmer teaches configuration data comprises at least one item selected from the group consisting of: information identifying a boot path [from boot server to B2, and from B2 to C1 – C3] for said given multi-cell computer system [fig. 3], information identifying a device to use as a system console [B2 as host] for said given multi-cell computer system [col. 4, lines 12 – 67, col. 5, lines 1 – 6], information identifying any tests to run when booting up the given multi-cell computer system, and information identifying resources of said given multi-cell computer system [col. 5, lines 20 – 67, col. 6, lines 1 – 56, fig. 4 - 5].

19. As to claim 16, Zimmer teaches a method comprising:

a. storing configuration data [245 disk image and 345 provisioning data] for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells; implementing the plurality of cells in a given multi-cell system [col. 3, lines 41 – 55, col. 4, lines 12 – 59, col. 7, lines 38 – 45, fig. 1 – 3]; and

b. determining [by status flag] if any of said cells possess the proper configuration data corresponding to the given multi-cell system [col. 6, lines 39 – 56, col. 8, lines 27 – 67].

20. As to claim 17, Zimmer teaches autonomously determining if any of said cells possess the proper configuration data [col. 8, lines 26 – 67].

21. As to claim 18, Zimmer teaches calculating a unique identifier of said given multi-cell system; and determining if a stored identifier in said nonvolatile memory of any one of said plurality of cells matches the calculated unique identifier [col. 5, lines 50 – 67, col. 6, lines 1 – 46].

22. As to claim 19, Zimmer teaches storing corresponding identifier data that uniquely identifies a multi-cell system to which the configuration data corresponds [col. 6, lines 39 – 46].

23. As to claim 20, Zimmer teaches storing configuration data [245 disk image and 345 provisioning data] for a first multi-cell system to a first one [B2] of said plurality of cells [B2 – B3]; and storing configuration data for a second multi-cell system [C1 – C3] to a second one [C2] of said plurality of cells [Fig. 3].

24. As to claim 21, Zimmer teaches said multi-cell system is a partition of a computer system [fig. 1, 3].

25. As to claim 22, Zimmer teaches storing said configuration data [245 disk image and 345 provisioning data] for said partition to a utility processor that is external [305 Boot server] to said partition [fig. 1, 3].

26. As to claim 30, Zimmer teaches a system [fig. 1] comprising:

a. a plurality of cells [105 blade server, 120 switch, 110 boot server] in a multi-cell system [fig. 1], wherein multiple ones of said cells include non-volatile memory to which are stored configuration data [245 disk image and 345 provisioning data] [col. 3, lines 41 – 55] and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell's respective stored configuration data corresponds [col. 6, lines 39 – 46].

27. As to claim 31, Zimmer teaches to determine whether its stored identifier matches a unique identifier [valid identifier] of said multi-cell system [step 425, fig. 4].

28. As to claim 32, Zimmer teaches that its stored identifier matches said unique identifier of said multi-cell system, then said at least one cell is operable to identify its corresponding stored configuration data as the proper configuration data [authenticates machine B2] for configuring said multi-cell system [col. 5, lines 54 – 56].

29. As to claim 33, Zimmer teaches each of cells [blade server] include non-volatile memory [fig. 2] to which are stored configuration data [245 disk image and 345 provisioning data] [col. 3, lines 41 – 55, fig. 2] and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell's respective stored configuration data corresponds [col. 6, lines 39 – 46].

30. As to claim 34, Zimmer teaches a system comprising:

a. non-volatile storage means [215 NV memory, 225, hard disk, 220], on each of a plurality of cells [105A blades] of a particular multi-cell partition [105, blade server, fig. 2], for storing configuration data [245 disk image and 345 provisioning data] [col. 3, lines 41 – 55, fig. 2];

b. non-volatile storage means, on each of said plurality of cells, for storing an identifier that uniquely identifies a multi-cell system to which the cell's respective stored configuration data relates [col. 4, lines 39 – 52, col. 6, lines 39 – 46]; and

c. means [pre-boot host agent], on at least one of said plurality of cells, for determining if said configuration data stored to any of said plurality of cells relates to said particular multi-cell partition [col. 4, lines 60 – 67, col. 5, lines 1 – 6, col. 6, lines 36 – 55].

31. As to claim 35, Zimmer teaches a system including means for determining whether a unique identifier of said particular multi-cell partition matches said at least one cell's stored identifier [step 425 for valid unique identifier check, fig. 4].

32. As to claim 35, Zimmer teaches a system including means for using the configuration data of a cell determined to have a stored identifier that matches said unique identifier of said particular multi-cell partition for configuring the particular multi-cell partition [col. 4, lines 12 – 59, col. 6, lines 39 – 46, fig. 3].

33. Claims 1, 16, 30, and 34, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hiray et al. [hereinafter as Hiray], US Patent application publication 2004/0260936 A1.

34. As to claim 1, 16, 30, and 34, Hiray teaches a system and method of managing configuration data for a multi-cell computer system [Fig. 1], the method comprising:

a. storing configuration data for a given multi-cell computer system [fig. 1] to nonvolatile memory [inherent to a claimed modular server] of at least one cell [in-band provisioning agent IBPA] of said given multi-cell computer system [fig.1]; and

b. storing a corresponding identifier to said nonvolatile memory of said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds [para 0007 – 0008, and para 0011 – 0012 on page 1, fig. 1 – 2].

35. Claims 1, 16, 30, and 34, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Reitze et al. [hereinafter as Reitze], US Patent 6,904,482 B2.

36. As to claim 1, 16, 30, and 34, Hiray teaches an apparatus [a modular server system, fig. 1] and method of managing configuration data for a multi-cell computer system [Fig. 1], the method comprising:

a. storing configuration data for a given multi-cell computer system [fig. 1] to nonvolatile memory [180 storage server] of at least one cell [180] of said given multi-cell computer system [col. 4, lines 48 – 59, col. 5, lines 23 – 38, col. 6, lines 23 – 36, col. 7, lines 40 – 67, col. 8, lines 1 – 17, fig.1]; and

b. storing a corresponding identifier to said nonvolatile memory of said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds [col. 2, lines 60 – 67, col. 2, lines 1 – 23, col. 4, lines 48 – 59, col. 6, lines 46 – 67, col. 7, lines 1 – 17, 40 – 67, col. 8, lines 1 – 17, fig. 1 – 4].

37. **Examiner's note**: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

38. **Prior Art not relied upon**: Please refer to the references listed in attached PTO-892, which, are not relied upon for claim rejection since these references are relevant to the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 571-272-3675. The examiner can normally be reached on 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on 571-272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nitin C Patel 3/15/07
Nitin C. Patel
Patent Examiner
Technology Center 2100